

HOUSE BILL 2886
By McCord

AN ACT to amend Tennessee Code Annotated, Title 44, relative to the Horse Industry Promotions Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 44, is amended by adding Sections 2 through 12 of this act as a new chapter 21 thereto.

SECTION 2. This act shall be known and may be cited as the "Horse Industry Promotions Act".

SECTION 3. It is declared by the general assembly to be in the interest of the public welfare that Tennessee horse owners shall be permitted and encouraged to act jointly and in cooperation in promoting, by advertising, protecting, educating, and other methods, the equine industry.

SECTION 4. As used in this act, unless the context otherwise requires:

(1) "Association" means any representative association, corporation, society or other body representing a breed of horse, the horse industry, or any segment thereof.

(2) "Commercial horse feed" means any commercial feed labeled for equine use;

(3) "Commissioner" means the commissioner of agriculture;

(4) "Council" means the Tennessee horse council;

(5) "Department" means the department of agriculture;

(6) "Equine" means a horse, pony, mule, donkey or hinny;

(7) "Horse owner" means a person who is a Tennessee resident and who owns or leases an equine;

(8) "Referendum" means any voting procedure under which affected horse owners may, by secret ballot, vote for or against assessment authorized by this chapter; and

(9) "Vote" means to cast a ballot on a referendum.

SECTION 5. No association, meeting or activity undertaken pursuant to the provisions of this chapter intended to benefit all horse owners shall be illegal or in restraint of trade.

SECTION 6. It is hereby further declared to be in the public interest and advantageous to the economy of the state that the horse owners be permitted, by referendum, and subject to the provisions of this chapter, to levy upon themselves an assessment and provide for the collection of the assessment, for the purpose of financing or contributing towards the financing of a program of promotion, protection, network research and education designed to improve the equine industry.

SECTION 7.

(a) Referenda shall be conducted statewide, under the control and direction of the commissioner. The polling place in each county shall be the offices of the university of Tennessee agriculture extension service. All ballots shall be provided at the polling place. All voting shall be by secret ballot.

(b) Each person seeking to vote in the referendum shall be required to file an affidavit stating that such person is a horse owner as defined in Section 4. Upon signing an affidavit, such person shall be eligible to vote. The question to be decided at the first referendum shall be in the following form:

Shall horse owners themselves at the rate of five cents (\$0.05) per fifty (50) pounds or two dollars (\$2.00) per ton of commercial horse feed purchases and use the funds so collected by the department of agriculture and paid over to the Tennessee horse council to finance a program of education, market development, marketing, advertising, protection and other methods designed to promote the interests of the equine industry.

The affirmative vote of the majority of the number of votes cast shall adopt the proposed assessment.

(c) Within ten (10) days after the referendum, the commissioner shall canvass the votes and publicly announce the result of the referendum.

(d) The expenses of a referendum held under this chapter shall be paid by the department until an assessment is levied and reimbursed from proceeds of the first assessment

funds. Expenses of subsequent referenda shall be paid from the promotion funds collected under the provisions of this chapter.

(e) No referendum pursuant to this chapter shall be held within one (1) year of any preceding referendum, except as provided in Section 8.

(f) The assessed rate as approved by the referendum shall be attached to and remitted with the current state inspection tonnage report. The commissioner shall cause a check to be drawn within thirty (30) days of report filing to transfer of funds to the council.

(g) The council may bring an action to collect unpaid assessments against any feed manufacturer or distributor who fails to pay the assessment.

SECTION 8.

(a) Within six (6) months, any person who purchases commercial horse feed upon which the assessment has been paid shall have the right to receive a refund of the assessment by making application in writing, on forms to be prescribed by the council, for refund of assessments paid. Such applications shall be accompanied by sales slips evidencing the commercial horse feed purchase.

(b) If the commissioner determines that, during any continuous twelve (12)-month period the assessment program is in effect, over thirty percent (30%) of the proceeds generated by the assessment is being refunded, then the commissioner shall conduct a referendum within one hundred twenty (120) days to determine whether such assessment program should remain in effect.

SECTION 9.

(a) The board of the council shall be composed of the following members:

(1) A designated director representing each association member;

(2) Members elected to the offices of president, vice-president, state secretary, recording secretary, and treasurer and immediate past president.

Representatives from each of the three (3) grand divisions shall be the governing board. The commissioner shall be an ex officio nonvoting member of the board.

SECTION 10. The governing board shall have the following duties:

- (1) Developing and recommending to the commissioner administrative rules and procedures relating to the assessments;
- (2) Preparing and effectuating the estimated budget required for the proper operation of the board;
- (3) Collecting and assembling information necessary for the proper administration of the assessment program; and
- (4) Performing any other duties necessary to the operation of the promotion program in coordination with the commissioner.

SECTION 11.

- (a) The council shall spend the proceeds of an assessment solely to finance a program of industry, promotion, protection, education, market development, marketing and advertising;
- (b) The council may accept gifts and grants and shall invest any idle funds;
- (c) The members of the council board shall not be compensated, but shall be reimbursed travel expenses in accordance with the provisions of the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.
- (d) An annual report of its activities shall be filed each January with the commissioner.

SECTION 12. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.